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In re application of
James Carducci et al.
Serial No.09/775,295
Filed: January 31, 2001
For: MAGNETIC BARRIER FOR PLASMA
IN CHAMBER EXHAUST

DECISION ON
PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION filed September 21, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed July 29, 2004 be withdrawn since the applicant did not receive the Notice of Allowance and Fee(s) Due mailed March 24, 2004.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114). A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicant or any authorized representative of the applicant did not receive the Notice of Allowance and Fee(s) Due, mailed March 24, 2004. The evidence provided includes a statement by the petitioner that the Notice of Allowance and Fee(s) Due, mailed March 24, 2004 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Notice of Allowance and Fee(s) Due was not received. Also provided is a copy of the declaration of the patent docket clerk of Applied Materials, Inc. providing direct testimony regarding search of the files and records for the Patent Office correspondence was not received. Also provided is a copy of the attorney's application docket records where the Office letter would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the Notice of Allowance and Fee(s) Due originally mailed March 24, 2004 and restarting of the period of response from the remail date thereof.

The Petition is **GRANTED**.

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